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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,278	04/23/2001	James Pangerc	0275Y-000357	3325

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/840,278

Applicant(s)

PANGERC ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15 is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-26 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 3/26/02 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Preliminary Patent Application (PTO-152)
- 6) ☐ Other:

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Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-21, drawn to a storage container, classified in class 220, subclass 522.
- II. Claims 22-26, drawn to a spacer, classified in class 52, subclass 27.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the end sections do not require slots. The subcombination has separate utility such as a wall panel for a room or building.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Ryan Massey on May 10, 2002 a provisional election was made with traverse to prosecute the invention of the storage container, claims 1-21. Affirmation of this election must be made by applicant in replying to this Office action. Claims 22-26 have been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the

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application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar.

Daneshvar discloses a base (1), a cover (2), first and second inner lids (plastic walls A and B). Daneshvar discloses the invention except for the each of the base, cover, first inner lid and second inner lid having more than a single hinge section. It is well known in hinge construction to have more than one hinge section to connect the respective part more securely as well as to connect the part to the hinge in more than one place to minimize the amount of deflection in the that part leading to a more aligned fit of that part to the whole assembly.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Teague et al. (Teague).

Daneshvar discloses the invention except for the sliding latch. Teague teaches a sliding latch. It would have been obvious to include a sliding latch in order to secure the base and cover so that stored items are not inadvertently loss due to spillage.

Claims 4-7, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Ratcliff.

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rotational Daneshvar discloses the invention except for the latches for the inner lids. Ratcliff *latch 55 which slides w.r.t. the plane of the lid when closed* *both* teaches latches for the transparent inner lids. It would have been obvious to modify the inner lids to have latches to prevent objects from inadvertently spilling from either the body or cover when the cover is in an open position relative to the body of the container. It would have been obvious to make the latch a slidable latch in order to provide a latch which operates by a easier translation motion rather than rotation.

Claims 6-8, 13 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Ratcliff as applied to claim 5 above, and further in view of Takama.

The combination discloses the invention except for the divider wall. Takama teaches an adjustable divider wall. It would have been obvious to add an adjustable divider wall in order to separate different items stored in the body.

Claims 10-12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takama in view of Daneshvar.

Takama discloses a base with an adjustable divider. Takama discloses invention except for the cover. Daneshvar teaches a cover. It would have been obvious to add a cover in order to protect the container's contents from damage.

Claims 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Takama.

Daneshvar discloses the invention except for the adjustable divider. Tanaka teaches an adjustable divider. It would have been obvious to add an adjustable divider wall in order to separate different items stored in the body.

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Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Daneshvar in view of Ratcliff and Takama as applied to claim 7 above, and further in view of Spencer.

The combination discloses the invention except for the slots in the ends of the divider. Spence teaches slots in the ends (110, 111) of divider (114). It would have been obvious to add slots in order to strengthen the connection of the divider to the wall.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ratcliff.


Ratcliff discloses the invention except for the raised lip. Raised lips are well known. It would have been obvious to add a raised lip in order to strengthen the inner lid panel to prevent it from buckling and becoming damaged.

.Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
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sjc
June 17, 2002